IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2528 OF 2007

Mr.P.D. Mathew ...Applicant

V/s.

State of Maharashtra & Anr. ...Respondents

Mr.R.S. Kulkarni for Applicant.
Mr.Y.M. Nakhawa APP for the State.

CORAM : V.M. KANADE, J.
DATED : 1st NOVEMBER, 2007.

P.C:-

1. Heard learned counsel for the Applicant and learned APP for the State.

2. Applicant is challenging the order passed by the Trial Court directing the police to investigate the case and submit its report U/s.156(3) of Cr.P.C. Applicant was working as a Branch Manager with the Respondent No.2. A complaint was filed by the Respondent No.2 against the Applicant that he had committed offences punishable u/s.406, 408, 420, 465, 467, 471 of IPC.

3. Learned counsel for the Applicant submitted that averments made in the application were false and that primary duty of the verification of the

accounts was of the Head Office and as such, he was not liable for the defalcation of money as alleged in the complaint.

4. In my view, averments in the complaint, if they are accepted at its face value, disclose commission of offence and, therefore, at this stage, it will not be possible to interfere with the order passed by the Magistrate directing the police to investigate U/s.156(3) of Cr.P.C. Learned counsel for the Applicant submitted that, in fact, a report had been submitted by the police in which it is stated that no role has been played by the Applicant herein in the fraud which was committed in the Company. Be that as it may. At this stage, it will not be possible to quash the complaint since this Court cannot decide the complaint in the absence of evidence being adduced by the parties. Applicant, however, at the liberty to file an application for discharge in the Trial Court after Complainant leads evidence before framing of charge. Application is accordingly rejected. Applicant is also at liberty to file a separate application in respect of prayer clause(b).

. Application is disposed of accordingly.

V.M. KANADE, J.